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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,083	04/27/2001	Oliver Nickel	Beiersdorf 721-KGB	9696
27384	7590	09/10/2004	EXAMINER	
KURT BRISCOE NORRIS, MC LAUGHLIN & MARCUS, P.A. 220 EAST 42ND STREET, 30TH FLOOR NEW YORK, NY 10017				CHANG, VICTOR S
		ART UNIT		PAPER NUMBER
				1771

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/844,083	NICKEL, OLIVER <i>S.C.</i>	
	Examiner	Art Unit	
	Victor S Chang	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 August 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Introduction

1. The Examiner has carefully considered Applicants' amendments and remarks filed on 8/11/2004. Applicants' amendments to claims 1 and 8 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. In particular, upon reconsideration, the Examiner now withdraws the objection in section 5 of Office action dated 4/14/2004. However, in view of the copending U.S. Application No. 09/431,849, new grounds of rejection is stated as follows.

Terminal Disclaimer

4. The terminal disclaimer filed on 8/11/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of co-pending U.S. Application No. 09/431,849 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections – 35 USC 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (US 5,385,783) in view of Sakumoto et al. (US 5,683,806) further in view of Leeuwenburgh (U.S. 5,935,669).

Patel discloses a high temperature resistant masking tape comprising a paper substrate, a release coat on one surface of said paper, and an adhesive on the other surface of said paper (abstract; col. 2, lines 1-5) comprising a maximum heat resistance of 165°C (specification, col. 1, line 23) and a tape comprised of conventional crepe paper (specification, col. 1, lines 59-60). The reference discloses a tape that is rolled up on a core (specification, col. 1, line 42). Patel does not disclose a film. While Patel does not disclose a specific width or thickness for the adhesive tape, he does state that the tape can be prepared into predetermined widths and lengths. Patel does not disclose that the masking film is folded or a polyolefin film.

Sakumoto teaches an adhesive tape comprising a heat resistant base film and a protective adhesive layer laminated on at least one surface of said base film (abstract, col. 2, lines 1-3). This protective laminated adhesive layer can be made out of polyolefin, such as polyphenylene (specification, col. 1, line 21). Sakumoto teaches that the protective layer has a thickness of from 1 to 200 μ m (specification, col. 2, line 54-55).

Patel and Sakumoto are analogous art because they are from the same field of endeavor, that is masking tape. At the time of the invention, it is obvious to a person of ordinary skill in the art to combine the protective laminated adhesive layer of

Sakumoto with the adhesive layer of Patel in order to provide protection for the adhesive layer of Patel so it would not lose its bonding properties. Neither reference teaches the masking film being folded or the masking film extending beyond said second edge of the masking paper.

Leeuwenburgh teaches a cover sheet folded with extending folds protruding beyond the other folding layers, an adhesive tape being fastened along the longitudinal edge portion (abstract) where the folded material is rolled (column 1, lines 64-65). Although Leeuwenburgh does not explicitly teach his cover sheet is a masking strip, it comprises the same materials and has the same function as applicants claimed masking strip, absent any evidence to the contrary. All the references are analogous art because they are from the same field of adhesive tapes. It would have been obvious to one of ordinary skill in the art to fold the masking strip of Patel leaving extended portions because Leeuwenberg teaches this is a conventional practice within the art and the extended portion can be used to adhere the strip to various surfaces.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VSC

Victor S Chang
Examiner
Art Unit 1771

8/24/2004



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700